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## **REMARKS**

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

## **Status of Claims**

Claims 1 – 17 are pending in the application. Claims 1 – 17 have been rejected. Claim 15 has been amended.

Claims 1- 12 have been cancelled, without prejudice or disclaimer. In making this cancellation without prejudice, Applicants reserve all rights in these claims to file divisional and/or continuation patent applications.

New claims 18 – 21 have been added in order to further define what the Applicants consider to be the invention. Applicants respectfully assert that no new matter has been added.

Claim 15 has been voluntarily amended for clarification. This amendment does not narrow the scope of the claims, nor is it being made for reasons of patentability.

## **CLAIM REJECTIONS**

### **35 U.S.C. § 102 Rejections**

In the Office Action, the Examiner rejected claims 1 – 17 under 35 U.S.C. § 102(b), as being anticipated by Oberman et al. (US Publication 2002/0118640). Applicants respectfully traverse this rejection in view of the remarks that follow.

Claim 13 recites “*means for adjusting the size of aggregated data packets*”. Oberman et al does not disclose a method or system for “adjusting the size of aggregated data packets”. Oberman et al teaches “a system and method for low latency switching of data packets in a network switch” (Abstract). It is known in the art that network switches do not include functionality for “adjusting the size” of data packets; rather, they forward them as is to another network device. Paragraph 0048 (Oberman et al.) discloses alternative methods for either forwarding an “entire packet”, or to “begin forwarding the data despite not yet having received the entire packet.” In either case, the size of the packet is not adjusted. The issue addressed is whether or not to forward the “entire packet” as a whole, or to send it piecemeal as it becomes available. In either case, the outgoing packet remains the same size as the incoming packet.

Accordingly, Applicants assert that Oberman et al cannot provide the limitations of claim 13.

In the interests of moving the prosecution forward, Applicants will address new claims 18 – 21 within the context of the Examiner’s rejection of claims 1 – 17.

New claim 18 recites “**aggregating** in a buffer at least two small messages received from an upper layer **into a packet**.” Paragraph 0012 of the present application states "As shown in Fig. 1A, aggregation thread 10 may receive short messages 20 from an application or 'upper layer' (not shown) and, utilizing a buffer 21, may aggregate a group of them into a packet 22, where each packet may contain N short messages 20." Thus, each data packet contains multiple short messages 20.

As discussed hereinabove, Oberman et al discloses a system and method for network switches. It is known in the art that network switches do not “aggregate” data into data packets; rather, they “assemble” incoming data packets prior to forwarding them to another network device. Oberman et al provides cell assembly queues 422 “to receive packets from input block 400 and store them in shared memory” (Oberman et al, paragraph 0045). Accordingly, cell assembly queue 422 cannot provide aggregation of multiple items “into a data packet” as asserted by the Examiner.

Oberman et al also cannot provide a teaching for “*at least two small messages received from an upper layer*.” (claim 18) A network switch does not communicate with “an

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upper layer”, and the nature of the data received by the switch is irrelevant. A network switch receives data packets and forwards the same data packets. It does not relate to incoming data as “small messages”, it only recognizes data packets. “Packet frames” as taught by Oberman et al are “internal format packet data” (Paragraph 0042), the physical bits and bytes which constitute a data packet as generated by a device prior to its transmission to the network switch. Accordingly, Oberman et al teaches cell assembly queues 422 to *assemble* data packets from their component packet frames.

It follows that Oberman et al. teaches a system and method for a process that is “downstream” from that addressed by the present application. Claim 18 provides “aggregating in a buffer at least two small messages received from an upper layer into a packet” and “passing said packets to a network device.” The network switch taught by Oberman et al is analogous to the “network device” recited by 18. It receives and processes already prepared data packets.

Accordingly, Applicants assert that Oberman et al cannot provide the limitations of claim 18.

Accordingly, Applicants respectfully assert that independent claims 13 and 18 are allowable. Claims 14 – 17 and 19 - 21 depend from, directly or indirectly, claims 13 and 18 and therefore include all the limitations of those claims. Therefore, Applicants respectfully assert that claims 14 – 17 and 19 – 21 are likewise allowable. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections to claims 13 – 17 and allow new claims 18 – 21 as well.

In view of the foregoing amendments and remarks, the ending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

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If any fee is due, the undersigned hereby authorizes the United States Patent and Trademark Office to charge the fees to Deposit Account 09-0468.

Respectfully submitted,

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Date: 5 June 2008  
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